

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

| | | |
|---------------------------------------------------------------------|---|-------------------------------|
| IN RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION |) | MDL No. 1456 |
| |) | Master File No. 01-12257-PBS |
| |) | Subcategory Case No. 06-11337 |
| |) |) |
| |) | Judge Patti B. Saris |
| |) |) |
| THIS DOCUMENT RELATES TO: |) |) |
| <i>State of California, ex rel. Ven-A-Care v.</i> |) |) |
| <i>Abbott Laboratories, et al.</i> |) |) |
| Case No. 03-CV-11226-PBS |) |) |
| |) |) |

**STATE OF CALIFORNIA'S MOTION FOR DISMISSAL
OF B. BRAUN MEDICAL INC.**

Pursuant to Fed. R. Civ. P. 41(a)(2), by and through its counsel, the State of California moves for an Order of the Court dismissing defendant B. Braun Medical Inc. (“B. Braun”) from the above-entitled action. In support of this motion, the parties state as follows:

1. B. Braun was named as a defendant in the above-referenced action.
2. The State of California has entered into a Settlement Agreement and Release (“Agreement”) with B. Braun. All claims asserted by the State of California against B. Braun in the above-entitled action are hereby dismissed with prejudice, subject to the terms of that Agreement.
3. The parties agreed that each party will bear its own costs.
4. The dismissal has no effect on the State of California’s claims or allegations against any party other than B. Braun in this action.
5. B. Braun consents to this motion, as does the relator Ven-A-Care.

WHEREFORE, the parties jointly request that the Court enter an Order dismissing B.

Braun Medical Inc. with prejudice. A proposed Order of dismissal is attached.

Dated: December 9, 2008

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General for the State of California

By: /s/ Nicholas N. Paul
NICHOLAS N. PAUL
CA State Bar No: 190605
Supervising Deputy Attorney General
Bureau of Medi-Cal Fraud and Elder Abuse
Office of The Attorney General
1455 Frazee Road, Suite 315
San Diego, California 92108
Telephone: (619) 688-6099
Fax: (619) 688-4200

**Attorneys for Plaintiff,
STATE OF CALIFORNIA**

CERTIFICATE OF SERVICE

I, Nicholas N. Paul, hereby certify that on December 9, 2008, I caused a true and correct copy of the foregoing, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

/s/ Nicholas N. Paul.
NICHOLAS N. PAUL
Supervising Deputy Attorney General